

From the INTERNATIONAL BUREAU

**PCT**

NOTIFICATION CONCERNING  
TRANSMITTAL OF COPY OF INTERNATIONAL  
PRELIMINARY REPORT ON PATENTABILITY  
(CHAPTER I OF THE PATENT COOPERATION  
TREATY)

(PCT Rule 44bis.1(c))

To:

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Date of mailing (day/month/year)

29 June 2006 (29.06.2006)

Applicant's or agent's file reference

120/04224

**IMPORTANT NOTICE**

International application No.

PCT/IL2004/001134

International filing date (day/month/year)

15 December 2004 (15.12.2004)

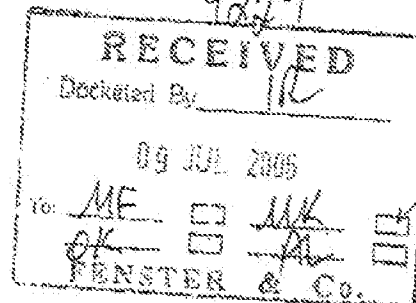
Priority date (day/month/year)

15 December 2003 (15.12.2003)

Applicant

BY-PASS, INC. et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)



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# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 120/04224	<b>FOR FURTHER ACTION</b>	See item 4 below
International application No. PCT/IL2004/001134	International filing date (day/month/year) 15 December 2004 (15.12.2004)	Priority date (day/month/year) 15 December 2003 (15.12.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant BY-PASS, INC.		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |                                     |              |   |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the report   |
| <input type="checkbox"/>            | Box No. II   | Priority  |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/>            | Box No. IV   | Lack of unity of invention  |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Article 33(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited   |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application  |
| <input type="checkbox"/>            | Box No. VIII | Certain observations on the international application   |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.3).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 740 14 35	Date of issuance of this report 20 June 2006 (20.06.2006)  Authorized officer  <div style="text-align: center; font-weight: bold;">Simin Baharlou</div> Telephone No. +41 22 338 71 30
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WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/IL04/01134

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(h)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.  
PCT/IL04/01134

Box No. V Reasoned statement under Rule 43 bis 1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 4-5, 9-10, 13, 15-19, 25, 27-45	YES
	Claims 1-3, 6-8, 11-12, 14, 20-24, 26, 46	NO
Inventive step (IS)	Claims NONE	YES
	Claims 1-46	NO
Industrial applicability (IA)	Claims 1-46	YES
	Claims NONE	NO

2. Citations and explanations:

Claims 1-3, 6-8, 11-12, 14, 20-24, 26 and 46 lack novelty under PCT Article 33(2) as being anticipated by Katsaros et al.-5,540,715.

Katsaros-715 (Fig. 14) discloses biodegradable balloon 86/90 and biodegradable anchor member 92/sealing mechanism for stopping bleeding from a catheterization puncture hole of an artery/blood vessel and inherently a biodegradable reservoir of filling material such as a salt water and delivery system capable of the balloon and anchor members adjacent to the hole as recited in the claims.

Claims 4-5, 9-10, 13, 15-19, 25, 27-45 lack an inventive step under PCT Article 33(3) as being obvious over Katsaros et al.-5,540,715.

Katsaros-715 (Fig. 1-14) discloses substantially the invention. Katsaros-715 does not explicitly disclose variations/modifications as recited in claims 4-5, 9-10, 13, 15-19, 25, 27-45. However, the variations/modifications as recited in the claims are well known. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Katsaros-715 device the features as claimed without significantly changing the function and performance of the Katsaros-715 device.